

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 15, 2010

AMENDED IN ASSEMBLY APRIL 12, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1697

Introduced by Assembly Member Hall

February 1, 2010

An act to amend Section 68085 of the Government Code, and to amend Section 1465.8 of the Penal Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1697, as amended, Hall. Court security.

(1) Existing law establishes the Trial Court Trust Fund, the proceeds of which are apportioned for the purpose of funding trial court operations.

This bill would establish a Court Security Account in the Trial Court Trust Fund, and require that all court security funds from whatever source be deposited into the account and ~~only~~ expended *only* for court security services.

(2) Existing law imposes a fee of \$30 upon every conviction for a criminal offense, other than parking offenses, for funding of court security until July 1, 2011, and a court security fee of \$20 thereafter. Existing law provides that proceeds of the court security fee be transferred monthly from the counties for deposit in the Trial Court Trust Fund to fund trial court operations, including those marshals and sheriffs as the court deems necessary for court operations.

This bill would continue the increased court security fee until July 1, ~~2016~~ 2013. The bill would require proceeds of the court security fee to

be deposited in the Court Security Account in the Trial Court Trust Fund. This bill would require the Judicial Council to provide for administration of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) Section 69926 of the Government Code provides that court
4 security for superior courts shall be provided by the county sheriff
5 or marshal.

6 (b) Court security services are provided by sheriffs and marshals
7 for a number of public safety reasons, including their extensive
8 peace officer training, jurisdiction over the inmates in local jails,
9 including the transport of inmates to and from the jail to court
10 proceedings, and sheriff's and marshal's personnel in the courts
11 serving as bailiffs. Sheriffs and marshals have the longstanding
12 proven expertise and training to provide this much needed and
13 necessary function in California.

14 (c) The sheriffs and marshals of the State of California are
15 committed to continuing to provide the highest level service and
16 security in California's courtrooms.

17 (d) Instability in court security funding creates a burden on the
18 state, on local courts, and on county sheriffs and marshals. State
19 funding continues to be impacted by salary and retirement
20 adjustments at the local level without any real state input into
21 growth in those areas. County sheriffs and marshals and local
22 courts struggle with continual lack of certainty in funding.

23 (e) Funding needs to be simplified to create maximum
24 efficiencies for court security services and cost containment for
25 the state.

26 (f) Consideration shall be given to help fund court security
27 needs.

28 SEC. 2. Section 68085 of the Government Code is amended
29 to read:

30 68085. (a) (1) There is hereby established the Trial Court
31 Trust Fund, the proceeds of which shall be apportioned for the
32 purposes authorized in this section, including apportionment to

1 the trial courts to fund trial court operations, as defined in Section
2 77003.

3 (2) The apportionment payments shall be made by the
4 Controller. The final payment from the Trial Court Trust Fund for
5 each fiscal year shall be made on or before August 31 of the
6 subsequent fiscal year.

7 (A) Notwithstanding any other provision of law, in order to
8 promote statewide efficiency, the Judicial Council may authorize
9 the direct payment or reimbursement or both of actual costs from
10 the Trial Court Trust Fund or the Trial Court Improvement Fund
11 to fund the costs of operating one or more trial courts upon the
12 consent of participating courts. These paid or reimbursed costs
13 may be for services provided to the court or courts by the
14 Administrative Office of the Courts or payment for services or
15 property of any kind contracted for by the court or courts or on
16 behalf of the courts by the Administrative Office of the Courts.
17 The amount of appropriations from the Trial Court Improvement
18 Fund under this subdivision may not exceed 20 percent of the
19 amount deposited in the Trial Court Improvement Fund pursuant
20 to subdivision (a) of Section 77205. The direct payment or
21 reimbursement of costs from the Trial Court Trust Fund may be
22 supported by the reduction of a participating court's allocation
23 from the Trial Court Trust Fund to the extent that the court's
24 expenditures for the program are reduced and the court is supported
25 by the expenditure. The Judicial Council shall provide the affected
26 trial courts with quarterly reports on expenditures from the Trial
27 Court Trust Fund incurred as authorized by this subdivision. The
28 Judicial Council shall establish procedures to provide for the
29 administration of this paragraph in a way that promotes the
30 effective, efficient, reliable, and accountable operation of the trial
31 courts.

32 (B) As used in subparagraph (A), the term "costs of operating
33 one or more trial courts" includes any expenses related to operation
34 of the court or performance of its functions, including, but not
35 limited to, statewide administrative and information technology
36 infrastructure supporting the courts. The term "costs of operating
37 one or more trial courts" is not restricted to items considered "court
38 operations" pursuant to Section 77003, but is subject to policies,
39 procedures, and criteria established by the Judicial Council, and

1 may not include an item that is a cost that must otherwise be paid
2 by the county or city and county in which the court is located.

3 (b) Notwithstanding any other provision of law, the fees listed
4 in subdivision (c) shall all be deposited upon collection in a special
5 account in the county treasury, and transmitted monthly to the
6 State Treasury for deposit in the Trial Court Trust Fund.

7 (c) (1) Except as specified in subdivision (d), this section applies
8 to all fees collected on or before December 31, 2005, pursuant to
9 Sections ~~631.3~~, 116.230, ~~and~~ 403.060, *and 631.3* of the Code of
10 Civil Procedure and Sections 26820.4, 26823, 26826, 26826.01,
11 26827, 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1,
12 26837.1, 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4,
13 26862, 68086, 72055, 72056, 72056.01, and 72060.

14 (2) Notwithstanding any other provision of law, except as
15 specified in subdivision (d) of this section and subdivision (a) of
16 Section 68085.7, this section applies to all fees and fines collected
17 on or before December 31, 2005, pursuant to Sections 116.390,
18 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160,
19 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure,
20 Sections 26824, 26828, 26829, 26834, and 72059 of the
21 Government Code, and subdivisions (b) and (c) of Section 166
22 and Section 1214.1 of the Penal Code.

23 (3) If any of the fees provided for in this subdivision are partially
24 waived by court order, and the fee is to be divided between the
25 Trial Court Trust Fund and any other fund, the amount of the partial
26 waiver shall be deducted from the amount to be distributed to each
27 fund in the same proportion as the amount of each distribution
28 bears to the total amount of the fee.

29 (d) This section does not apply to that portion of a filing fee
30 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
31 72056 that is allocated for dispute resolution pursuant to Section
32 470.3 of the Business and Professions Code, the county law library
33 pursuant to Section 6320 of the Business and Professions Code,
34 the Judges' Retirement Fund pursuant to Section 26822.3,
35 automated recordkeeping or conversion to micrographics pursuant
36 to Sections 26863 and 68090.7, and courthouse financing pursuant
37 to Section 76238. This section also does not apply to fees collected
38 pursuant to subdivisions (a) and (c) of Section 27361.

1 (e) This section applies to all payments required to be made to
2 the State Treasury by any county or city and county pursuant to
3 Section 77201, 77201.1, or 77205.

4 (f) Notwithstanding any other provision of law, no agency may
5 take action to change the amounts allocated to any of the funds
6 described in subdivision (a), (b), (c), or (d).

7 (g) The Judicial Council shall reimburse the Controller for the
8 actual administrative costs that will be incurred under this section.
9 Costs reimbursed under this section shall be determined on an
10 annual basis in consultation with the Judicial Council.

11 (h) Any amounts required to be transmitted by a county or city
12 and county to the state pursuant to this section shall be remitted
13 to the State Treasury no later than 45 days after the end of the
14 month in which the fees were collected. This remittance shall be
15 accompanied by a remittance advice identifying the collection
16 month and the appropriate account in the Trial Court Trust Fund
17 to which it is to be deposited. Any remittance that is not made by
18 the county or city and county in accordance with this section shall
19 be considered delinquent, and subject to the interest and penalties
20 specified in this section.

21 (i) Upon receipt of any delinquent payment required pursuant
22 to this section, the Controller shall do the following:

23 (1) Calculate interest on the delinquent payment by multiplying
24 the amount of the delinquent payment at a daily rate equivalent to
25 the rate of return of money deposited in the Local Agency
26 Investment Fund pursuant to Section 16429.1 from the date the
27 payment was originally due to either 30 days after the date of the
28 issuance by the Controller of the final audit report concerning the
29 failure to pay or the date of payment by the entity responsible for
30 the delinquent payment, whichever comes first.

31 (2) Calculate a penalty at a daily rate equivalent to 1 ½ percent
32 per month from the date 30 days after the date of the issuance by
33 the Controller of the final audit report concerning the failure to
34 pay.

35 (j) (1) Interest or penalty amounts calculated pursuant to
36 subdivision (i) shall be paid by the county, city and county, or
37 court to the Trial Court Trust Fund no later than 45 days after the
38 end of the month in which the interest or penalty was calculated.
39 Payment shall be made by the entity responsible for the error or

1 other action that caused the failure to pay, as determined by the
2 Controller in notice given to that party by the Controller.

3 (2) Notwithstanding Section 77009, any interest or penalty on
4 a delinquent payment that a court is required to make pursuant to
5 this section and Section 24353 shall be paid from the Trial Court
6 Operations Fund for that court.

7 (3) The Controller may permit a county, city and county, or
8 court to pay the interest or penalty amounts according to a payment
9 schedule in the event of a large interest or penalty amount that
10 causes a hardship to the paying entity.

11 (4) The party responsible for the error or other action that caused
12 the failure to pay may include, but is not limited to, the party that
13 collected the funds who is not the party responsible for remitting
14 the funds to the Trial Court Trust Fund, if the collecting party
15 failed or delayed in providing the remitting party with sufficient
16 information needed by the remitting party to distribute the funds.

17 (k) The Trial Court Trust Fund shall be invested in the Surplus
18 Money Investment Fund and all interest earned shall be allocated
19 to the Trial Court Trust Fund quarterly and shall be allocated
20 among the courts in accordance with the requirements of
21 subdivision (a). The specific allocations shall be specified by the
22 Judicial Council.

23 (l) It is the intent of the Legislature that the revenues required
24 to be deposited into the Trial Court Trust Fund be remitted as soon
25 after collection by the courts as possible.

26 (m) Except for subdivisions (a) and (k), this section does not
27 apply to fees and fines that are listed in subdivision (a) of Section
28 68085.1 that are collected on or after January 1, 2006.

29 (n) The changes made to subdivisions (i) and (j) of this section
30 by the act adding this subdivision shall apply to all delinquent
31 payments for which no final audit has been issued by the Controller
32 prior to January 1, 2008.

33 (o) There is hereby established in the Trial Court Trust Fund a
34 Court Security Account. All court security funds from whatever
35 source, including general funds and funds from the court security
36 fee authorized by Section 1465.8 of the Penal Code, shall be
37 deposited into the Court Security Account in the Trial Court Trust
38 Fund. Funds in the Court Security Account may ~~only~~ be expended
39 *only* for court security services.

1 SEC. 3. Section 1465.8 of the Penal Code, as amended by
2 Section 29 of Chapter 22 of the 4th Extraordinary Session of the
3 Statutes of 2009, is amended to read:

4 1465.8. (a) (1) To ensure and maintain adequate funding for
5 court security, a fee of thirty dollars (\$30) shall be imposed on
6 every conviction for a criminal offense, including a traffic offense,
7 except parking offenses as defined in subdivision (i) of Section
8 1463, involving a violation of a section of the Vehicle Code or
9 any local ordinance adopted pursuant to the Vehicle Code.

10 (2) For the purposes of this section, “conviction” includes the
11 dismissal of a traffic violation on the condition that the defendant
12 attend a court-ordered traffic violator school, as authorized by
13 Sections 41501 and 42005 of the Vehicle Code. This security fee
14 shall be deposited in accordance with subdivision (d), and may
15 not be included with the fee calculated and distributed pursuant to
16 Section 42007 of the Vehicle Code.

17 (b) This fee shall be in addition to the state penalty assessed
18 pursuant to Section 1464 and may not be included in the base fine
19 to calculate the state penalty assessment as specified in subdivision
20 (a) of Section 1464. The penalties authorized by Chapter 12
21 (commencing with Section 76000) of Title 8 of the Government
22 Code, and the state surcharge authorized by Section 1465.7, do
23 not apply to this fee.

24 (c) If bail is deposited for an offense to which this section
25 applies, and for which a court appearance is not necessary, the
26 person making the deposit also shall deposit a sufficient amount
27 to include the fee prescribed by this section.

28 (d) Notwithstanding any other law, the fees collected pursuant
29 to subdivision (a) shall all be deposited in a special account in the
30 county treasury and transmitted therefrom monthly to the Controller
31 for deposit in the Court Security Account in the Trial Court Trust
32 Fund, established pursuant to subdivision (o) of Section 68085 of
33 the Government Code.

34 (e) The Judicial Council shall provide for the administration of
35 this section.

36 (f) This section shall remain in effect only until July 1, ~~2016~~
37 ~~2013~~, and as of that date is repealed, unless a later enacted statute,
38 that is enacted before July 1, ~~2016~~ ~~2013~~, deletes or extends that
39 date.

1 SEC. 4. Section 1465.8 of the Penal Code, as added by Section
2 30 of Chapter 22 of the 4th Extraordinary Session of the Statutes
3 of 2009, is amended to read:

4 1465.8. (a) (1) To ensure and maintain adequate funding for
5 court security, a fee of twenty dollars (\$20) shall be imposed on
6 every conviction for a criminal offense, including a traffic offense,
7 except parking offenses as defined in subdivision (i) of Section
8 1463, involving a violation of a section of the Vehicle Code or
9 any local ordinance adopted pursuant to the Vehicle Code.

10 (2) For the purposes of this section, “conviction” includes the
11 dismissal of a traffic violation on the condition that the defendant
12 attend a court-ordered traffic violator school, as authorized by
13 Sections 41501 and 42005 of the Vehicle Code. This security fee
14 shall be deposited in accordance with subdivision (d), and may
15 not be included with the fee calculated and distributed pursuant to
16 Section 42007 of the Vehicle Code.

17 (b) This fee shall be in addition to the state penalty assessed
18 pursuant to Section 1464 and may not be included in the base fine
19 to calculate the state penalty assessment as specified in subdivision
20 (a) of Section 1464. The penalties authorized by Chapter 12
21 (commencing with Section 76000) of Title 8 of the Government
22 Code, and the state surcharge authorized by Section 1465.7, do
23 not apply to this fee.

24 (c) If bail is deposited for an offense to which this section
25 applies, and for which a court appearance is not necessary, the
26 person making the deposit also shall deposit a sufficient amount
27 to include the fee prescribed by this section.

28 (d) Notwithstanding any other law, the fees collected pursuant
29 to subdivision (a) shall all be deposited in a special account in the
30 county treasury and transmitted therefrom monthly to the Controller
31 for deposit in the Court Security Account in the Trial Court Trust
32 Fund, established pursuant to subdivision (o) of Section 68085 of
33 the Government Code.

34 (e) The Judicial Council shall provide for the administration of
35 this section.

36 (f) This section shall become operative on July 1, 2016.

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